

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

LEON JOHNSON,

Petitioner,

v.

**NATHANIEL QUARTERMAN, Director,
TDCJ-CID,**

Respondent.

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Civil Action No. **3:03-CV-0139-L**

ORDER

Before the court are the Findings, Conclusions and Recommendations of the United States Magistrate Judge, entered June 25, 2007. No objections to the magistrate judge's findings and conclusions were filed.*

This is a habeas petition filed pursuant to 28 USC § 2254. Petitioner originally filed this action on January 16, 2003. The court denied the petition on October 29, 2004. The Fifth Circuit Court of Appeals reversed the court on February 12, 2007, finding that Petitioner had not exhausted his claim for ineffective assistance of counsel. Upon remand to this court, United States Magistrate Judge Paul D. Stickney found that the petition should be denied because Petitioner has failed to establish an ineffective assistance of counsel claim.

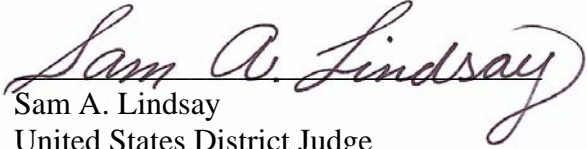
Petitioner's claim is based upon his allegation that his counsel was deficient for his failure to object to the arrest and search warrant that allegedly substituted Petitioner's name for "John Doe" after the warrant was signed by the magistrate judge in the underlying criminal case. Judge Stickney

*The docket sheet reflects that the clerk of the court mailed a copy of the findings and recommendations to Petitioner at his address at the Stevenson Unit in Cuero, Texas. The mail was returned as undeliverable on July 3, 2007. On July 9, 2007, The clerk then re-mailed the findings and recommendations to Petitioner at an address in Houston, Texas. No notice that the mail was undeliverable has been received by the court and no objections were filed.

found that it was an affidavit, not the warrant, that was altered; that the officer changed the name upon learning the Petitioner's name; that, upon Petitioner's guilty plea, any non-jurisdictional defects were waived except for ineffective assistance of counsel claims relating to the voluntariness of the plea; and that Petitioner has failed to establish that the results of the proceedings would have been different but for his counsel's alleged error.

Having reviewed the pleadings, file and record in this case, and the findings and conclusions of the magistrate judge, the court determines that the findings and conclusions are correct. The magistrate judge's findings and conclusions are therefore **accepted** as those of the court. The court therefore **denies** the petition and **dismisses** the action **with prejudice**.

It is so ordered this 8th day of August, 2007.


Sam A. Lindsay
United States District Judge